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SENATE

{ REPORT  
105-25

### ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

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JUNE 11, 1997.—Ordered to be printed

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Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### REPORT

[To accompany S. 417]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 417) to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following :

#### SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

The Energy Policy and Conservation Act is amended—

(1) at the end of section 154 by adding the following new subsection:

“(f) No later than October 1, 1997, the Secretary shall prepare a statement of policy on Strategic Petroleum Reserve development, maintenance and drawdown. The statement of policy shall evaluate the effect of sales of petroleum from the Strategic Petroleum Reserve under authorities other than those provided by this Act on the ability of the United States to fulfill its obligations under the international energy program. The statement of policy shall evaluate the effectiveness of the Strategic Petroleum Reserve at reducing the impact of severe energy supply interruptions, in light of existing quantities of petroleum in the Strategic Petroleum Reserve, and the likelihood of purchases of additional petroleum for storage. The statement of policy shall set forth alternative strategies for drawdown and the criteria to be employed at the time of drawdown to select among such strategies. The statement of policy shall be published in the Federal Register and be subject to public comment, and may be prepared without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act.”;

(2) by amending section 166 (42 U.S.C. 6246) to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 166. There are authorized to be appropriated for each of fiscal years 1998 through 2000 such sums as may be necessary to implement this part.”;

(3) at the end of Part B of title I by adding the following new section:

“USE OF UNDERUTILIZED FACILITIES

“SEC. 168. (a) Notwithstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in underutilized Strategic Petroleum Reserve facilities, by lease or otherwise, petroleum product owned by a foreign government or its representative. Petroleum product stored under this section is not part of the Strategic Petroleum Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.

“(b) Beginning on October 1, 2002, funds resulting from the leasing or other use of a Reserve facility under subsection (a) shall be available to the Secretary, without further appropriation, for the purchase of petroleum product for the Reserve.”;

(4) in section 181 (42 U.S.C. 6251) by striking “1997” both places it appears and inserting in lieu thereof “2000”;

(5) by striking “section 252(l)(1)” in section 251(e)(1) (42 U.S.C. 6271(e)(1)) and inserting “section 252(k)(1)”;

(6) in section 252 (42 U.S.C. 6272)—

(A) in subsections (a)(1) and (b), by striking “allocation and information provisions of the international energy program” and inserting “international emergency response provisions”;

(B) in subsection (d)(3), by striking “known” and inserting after “circumstance” “known as the time of approval”;

(C) in subsection (e)(2) by striking “shall” and inserting “may”;

(D) in subsection (f)(2) by inserting “voluntary agreement or” after “approved”;

(E) by amending subsection (h) to read as follows—

“(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—

“(1) the international energy program, or

“(2) any allocation, price control, or similar program with respect to petroleum products under this Act.”;

(F) in subsection (k) by amending paragraph (2), to read as follows—

“(2) The term ‘international emergency response provisions’ means—

“(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and

“(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including the July 11, 1984, decision by the Governing Board on (Stocks and Supply Disruptions) for—

“(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and

“(ii) complementary actions taken by governments during an existing or impending international oil supply disruption”; and

(G) by amending subsection (l) to read as follows—

“(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.”;

(7) by amending the last sentence of section 256(h) (42 U.S.C. 6276(h)) to read as follows: “There are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary to carry out this part.”;

(8) in section 281 (42 U.S.C. 6285) by striking “1997” both places it appears and inserting in lieu thereof “2002”;

(9) in section 365(f)(1) (42 U.S.C. 6325(f)(1)) by striking “not to exceed” and all that follows through “fiscal year 1993” and inserting in lieu thereof “for each of fiscal years 1998 through 2002 such sums as may be necessary”;

(10) by amending section 397 (42 U.S.C. 6371f) to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary.”; and

(11) in section 400BB(b) (42 U.S.C. 6374a(b)) by amending paragraph (1) to read as follows:

“(1) there are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for each of fiscal years 1998 through 2002, to remain available until expended.”.

**SEC. 2. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF UNITED STATES AND FREELY ASSOCIATED STATES.**

(a) Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following:

“(j) Purchases From Strategic Petroleum Reserve by Entities in Insular Areas of United States and Freely Associated States—

“(1) DEFINITIONS.—In this subsection:

“(A) BINDING OFFER.—The term ‘binding offer’ means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

“(B) CATEGORY OF PETROLEUM PRODUCT.—the term ‘category of petroleum product’ means a master line item within a notice of sale.

“(C) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity that owns or controls a refinery that is located within the State of Hawaii.

“(D) FULL TANKER LOAD.—The term ‘full tanker load’ means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

“(E) INSULAR AREA.—The term ‘insular area’ means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

“(F) OFFERING.—The term ‘offering’ means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

“(G) NOTICE OF SALE.—the term ‘notice of sale’ means the document that announces—

“(i) the sale of Strategic Petroleum Reserve products;

“(ii) the quantity, characteristics, and location of the petroleum product being sold;

“(iii) the delivery period for the sale; and

“(iv) the procedures for submitting offers.

“(2) IN GENERAL.—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

“(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

“(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

“(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

“(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

“(3) LIMITATION ON QUANTITY.—

“(A) IN GENERAL.—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

“(B) PORTION OF QUANTITY OF PREVIOUS IMPORTS.—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to  $\frac{1}{12}$  of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

“(C) PERCENTAGE OF OFFERING.—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

“(4) ADJUSTMENTS.—

“(A) IN GENERAL.—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

“(B) UPWARD ADJUSTMENT.—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

“(i) less than 1 full tanker load; or

“(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

“(C) DOWNWARD ADJUSTMENT.—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

“(5) DELIVERY TO OTHER LOCATIONS.—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

“(6) STANDARD SALES PROVISIONS.—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

“(7) ELIGIBLE ENTITIES.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

“(B) LIMITATION.—The Governor of the State of Hawaii shall not certify more than 1 eligible entity under this paragraph for each notice of sale.

“(C) BARRED COMPANY.—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

“(8) SUPPLIES OF PETROLEUM PRODUCTS.—At the request of the governor of an insular area or President of a freely associated State the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.”.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a).

(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the earlier of—

(1) the date that is 180 days after the date of enactment of this Act; or

(2) the date that final regulations are issued under subsection (b).

### SEC. 3. ENERGY POLICY ACT OF 1992 AMENDMENT.

Section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) is amended in subsection (c) by striking “and 1997” each place it appears and inserting “1997, 1998, 1999, and 2000” in lieu thereof.

### SEC. 4. ENERGY CONSERVATION AND PRODUCTION ACT AMENDMENT.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary.”.

PURPOSE OF THE MEASURE

The purpose of S. 417 is to reauthorize certain provisions of the Energy Policy and Conservation Act (EPCA). EPCA deals with issues affecting domestic energy supply and conservation, the Strategic Petroleum Reserve (SPR) and the International Energy Program Agreement [IEP]. Authorizations for the SPR and U.S. participation in the International Energy Agency [IEA] expire on September 30, 1997.

BACKGROUND AND NEED

STRATEGIC PETROLEUM RESERVE

Title I of EPCA provided for the creation of the SPR and sets forth the method and circumstances for its drawdown and distribution in the event of a severe energy supply interruption or to fulfill the U.S.'s obligations under the IEP Agreement. The Energy Policy Act of 1992 amended EPCA to allow for a drawdown in response to severe price increases, as well. Authority to allocate crude oil from the SPR is also provided.

The SPR has a total storage capacity of 750 million barrels of oil with a maximum drawdown capability of 3.7 million barrels per day. The capacity will be reduced to 680 million barrels by the decommissioning of the Weeks Island, Louisiana storage site. The SPR currently contains approximately 564 million barrels of oil. At its peak, the SPR contained 592 million barrels of oil. In 1993, it was discovered that nearly 143 million barrels of oil in the reserve were unavailable for drawdown due to the natural phenomena of geothermal heating and methane intrusion into the oil in certain of the caverns. Two years ago, the Department began degassifying the oil and has installed heat exchangers to cool the oil. The stabilization program is expected to take a total of three to four years to complete at an estimated cost of \$60 million.

In addition, the Weeks Island storage facility developed a geologic fissure, which required the removal and relocation of the oil to the Big Hill and Bayou Choctaw sites. This operation started in November 1995. The decommissioning of the Weeks Island facility is expected to take three to four years. The total estimated cost of moving the oil and decommissioning Weeks Island is \$91 million. To pay for these activities, DOE requested, and received, authority to sell 5.1 million barrels of SPR oil for a total of \$96 million in the fiscal year 1996 “Balanced Budget Downpayment Act.” Of the funds generated, \$35 million was spent on Weeks Island in fiscal year 1996, with the other \$61 million used for life extension activities and degassing at other SPR facilities.

In addition to the Weeks Island sale, the fiscal year 1996 budget agreement required the sale of 12.8 million barrels of SPR oil, for a total of \$227 million, and the 1997 Omnibus Appropriations bill authorized the sale of up to 15 million barrels for \$220 million. The funds raised by these sales were used to offset spending. The Presi-

dent's fiscal year 1998 budget contained a proposal to raise \$1.1 billion through the sale of SPR oil. This measure would require the sale of 50 million barrels of oil at the Energy Information Administration price of \$22.39 per barrel.

The Energy Policy and Conservation Act Amendments of 1990 directed the Department of Energy to submit a plan amendment to Congress by September 15, 1992, with detailed plans to expand the size of the SPR to one billion barrels. Submission of the plan has been indefinitely postponed. In the past, the Department of Energy has recommended that further plans to expand the reserve should be linked to formation of a plan for completion of fill of the existing 750 million barrel capacity. This recommendation is based on the fact that EPCA requirements for a fill rate of 75,000 barrels per day and the expansion of the reserve capacity have not been supported with appropriations. The current cost estimate to fill the existing capacity is \$3.7–4.7 billion. Expanding the capacity another 250 million barrels would require \$10 billion additional investment in facilities and oil. S. 417 contains language that would clarify the authority of the Secretary to lease storage capacity in underutilized SPR facilities to foreign governments.

On April 30, 1997, in preparation for the issuance of an Administration Statement of Policy concerning the capacity, size, use and financing, among other issues, of the SPR, DOE issued a notice of Opportunity for Public Comment on these issues. DOE plans to issue the Statement of Policy in the fall of 1997.

#### INTERNATIONAL ENERGY PROGRAM

The IEA, founded in 1974 at the instigation of the United States, is the principal forum for energy cooperation among the twenty-one industrialized countries participating in the IEP Agreement. The IEP is designed to reduce the economic risks of oil supply disruptions and to reduce dependence on oil through coordinated efforts.

The IEP Agreement called for the establishment of an information system on the international oil market and other sources of energy. The IEA's information system and assessments, widely cited by Government and industry analysts, are invaluable in tracking international energy markets.

In the event of supply emergencies, the IEA implements the Emergency Sharing System. Under the Emergency Sharing System, IEA member countries commit to reduce oil demand and share available oil supplies according to an established formula. Participation in the program requires countries to maintain the following capabilities:

- Emergency oil stocks equivalent to 90 days of net oil imports;
- The ability to reduce consumption of oil by 10 percent, or be prepared to draw down oil stocks in excess of the 90 days commitment; and

- Legal authority to participate in the system by the Government and private companies.

At this time, the SPR contains approximately a 70-day supply, based on 7.9 million barrel per day net imports. The last time the EIA completed a stocks report, in October of 1995, total U.S. stocks, including those privately held, contained approximately 171

days of net imports. This was down from a 203-day supply in October of 1993.

Title II of EPCA contains the specific authorities for U.S. participation in the IEP. Section 251 provides authority for mandatory oil allocation as a last resort in the event voluntary emergency sharing fails to achieve its goals. Section 252 provides a limited anti-trust exemption for U.S. companies to participate at the IEA on the IEP allocation and information provision and in tests of the IEA emergency data and sharing systems. Section 254 provides the authority for the Executive Branch to provide to the IEA information and data related to the domestic oil industry.

Coordination of oil stocks through IEA increases the economic benefits by equitably distributing the burden of building and maintaining those stocks. The efforts of other IEA countries to build up their own oil stocks and willingness to draw on them when necessary are a complement to the U.S. Strategic Petroleum Reserve program. The United States has long advocated a policy at the IEA of coordinated stockdraws in the event of international market disruptions with reliance on the allocation procedures under the Emergency Sharing System only as a last resort. This is now the accepted policy within the IEA.

During the Persian Gulf crises, at the urging of the United States, the IEA successfully tested a coordinated stockdraw in response to the severe economic harm caused by the dramatic increase in oil prices. At that time, conditions in the oil market did not result in a "trigger" situation. U.S. oil companies only have the anti-trust protection for sharing information at the IEA in a "trigger" situation that would invoke the Emergency Sharing System. The "trigger" under the IEP is a 7% physical storage of imports available to a member country. The Administration has proposed modifying the anti-trust provision to cover international energy response actions agreed upon at the IEA. The Committee amendment would provide the necessary protections for U.S. oil companies to share information with the IEA in anticipation of coordinated actions that do not result in physical allocations.

#### CORECT AND COEECT

Title II of EPCA also authorizes the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT). CORECT is an interagency committee whose 14 Federal agency members work with private industry to promote exports of renewable energy technologies from the U.S. COEECT performs an identical function for energy efficiency technologies.

#### TITLE III OF EPCA

The authorization for the State Energy Conservation programs, the Energy Conservation Program for Schools and Hospitals, expired after fiscal year 1993. The Alternative Fuels Truck Commercial Application Program expired after fiscal year 1995.

## WEATHERIZATION PROGRAM

Section 422 of the energy Conservation and Production Act, which is the weatherization program for low-income homeowners, expired after fiscal year 1994.

## PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF THE UNITED STATES

Hawaii is the most oil dependent State in the nation. Oil comprises 92 percent of the States's energy supply. A heavy dependence on oil, absence of indigenous energy resources, and a total reliance on ocean deliveries makes the State exceptionally vulnerable to a cutoff of oil supplies. Hawaii's distance from the SPR is yet another concern. Honolulu is 7,000 miles from the SPR loading docks by way of the Panama Canal—more than one-quarter of the distance around the globe. The State's dependence is a function of geography and geology, not choice.

A May 1994 study completed for the Department of Energy by the East-West Center, "Energy Vulnerability Assessment for the U.S. Pacific Islands," provides strong justification for granting Hawaii priority access to SPR sales during a severe energy emergency. The study found "there are very few opportunities for the islands to reduce their costs for petroleum and their very high dependency on imported petroleum products. These characteristics of the islands combined with their limited resources have resulted in extreme vulnerability to oil supply disruptions."

The need for priority SPR access was also addressed in a December 1993 DOE/State of Hawaii analysis of Hawaii's energy security, which found the following:

Hawaii depends on imported oil for over 92% of its energy. This makes Hawaii the most vulnerable State in the Nation to the disruption of its economy and way of life in the event of a disruption of the world oil market or rapid oil price increases.

Currently, 40% of Hawaii's oil comes from Alaska and the remainder from the Asia-Pacific region. The export capabilities of these domestic and foreign sources of supply are projected to decline by approximately 50 percent by the year 2000. This will likely increase Hawaii's dependence on oil from the reserves of the politically unstable Middle East.

Hawaii is also vulnerable to possible supply disruptions in the event of a crisis. The long distance from the U.S. Strategic Petroleum Reserve in Louisiana and Texas, combined with a declining number of U.S.-flag tankers capable of transiting the Panama Canal, make timely emergency deliveries problematic. The consequences of an oil supply disruption for the U.S. Pacific territories of American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI) and Guam were also address in these studies. There are no refineries in these territories. American Samoa is supplied from Hawaii. Guam and CNMI are supplied from Singapore. In light of the absence of refineries in these locations, the Committee has authorized the Sec-



retary to assist the insular areas in identifying petroleum supply sources during the period of a drawdown.

#### LEGISLATIVE HISTORY

S. 417 was introduced on March 10, 1997, by Senator Murkowski. A hearing was held on S. 417, S. 186, and S. 698 on May 13, 1997.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on May 21, 1997, by majority vote of a quorum present recommends that the Senate pass S. 417, if amended as described herein.

The rollcall vote on the motion to report an amendment in the nature of a substitute was 20 yeas, 0 nays as follows:

##### YEAS

##### NAYS

Mr. Murkowski  
 Mr. Domenici <sup>1</sup>  
 Mr. Nickles <sup>1</sup>  
 Mr. Craig  
 Mr. Campbell <sup>1</sup>  
 Mr. Thomas  
 Mr. Kyl <sup>1</sup>  
 Mr. Grams  
 Mr. Smith  
 Mr. Gorton  
 Mr. Burns <sup>1</sup>  
 Mr. Bumpers  
 Mr. Ford <sup>1</sup>  
 Mr. Bingaman <sup>1</sup>  
 Mr. Akaka  
 Mr. Dorgan  
 Mr. Wyden  
 Mr. Johnson <sup>1</sup>  
 Ms. Landrieu

<sup>1</sup> Indicates vote by proxy.

#### COMMITTEE AMENDMENTS

The Committee adopted an amendment in the nature of a substitute to S. 417. The amendment would extend the authorizations for the SPR through September 30, 2000 and the IEA authorities through September 30, 2002. S. 417, as introduced, would have authorized both authorities through September 30, 2002. The Committee amendment imposes a deadline of October 1, 1997, for the Secretary to prepare a statement of policy on SPR development, maintenance and drawdown, and specifies the issues the Secretary shall evaluate. Unlike S. 417, as introduced, the amendment does not include language that would eliminate the provision of EPCA that links authority to sell oil from the United States' share of crude oil at the Naval Petroleum Reserve Number 1 to specified fill levels or rates for the SPR. Other EPCA authorizations extended through 2002 by the amendment are the State Energy Conserva-

tion Program, the Energy Conservation Program for Schools and Hospitals, and the Alternative Fuels Truck Commercial Application Program. The interagency working groups that promote exports, the Committee on Renewable Energy Commerce and Trade (CORECT) and the Committee on Energy Efficiency Commerce and Trade (COEECT) would be authorized through 2002. The committee amendment would also reauthorize the low-income weatherization programs of the Energy Conservation and Production Act through 2002; and the Renewable Indian Energy Resources Program of EPCA through fiscal year 2000. The amendment also incorporates the text of S. 186, "the Emergency Petroleum Supply Act," introduced by Senator Akaka, which would ensure that Hawaii have guaranteed access to the Strategic Petroleum Reserve during an oil supply disruption. The substitute amendment will also incorporate a portion of S. 698, the "Strategic Petroleum Reserve Replenishment Act," which requires that the revenue from leasing underutilized portions of the Strategic Petroleum Reserve be used to purchase petroleum products for the Reserve after October 1, 2002.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

Paragraph (1) would amend section 154 by adding a new subsection requiring the Department of Energy (DOE) to complete a statement of policy on the future of the Strategic Petroleum Reserve (SPR), including an evaluation of the effect of sales of oil from the SPR for budgetary purposes on the ability of the United States to meet its obligations under the international energy program. DOE has already issued a notice for comment on such a statement of policy and expects to complete it by the paragraph's deadline on October 1, 1997.

Paragraph (2) would amend section 166 of EPCA to authorize appropriations necessary to implement the Strategic Petroleum Reserve for fiscal year 1998 through 2000.

Paragraph (3) would add a new section 168 that would authorize the Secretary to lease underutilized Strategic Petroleum Reserve facilities for the storage of petroleum owned by a foreign government or its representatives. If necessary or appropriate, lease terms could exceed the five-year limitation of section 649(b) of the Department of Energy Organization Act.

Subparagraph (b) would provide that, after October 1, 2002, funds resulting from the leasing of SPR facilities shall be available to the Secretary, without further appropriation, to purchase petroleum products for storage in the SPR.

Paragraph (4) would amend section 181 of EPCA by extending the expiration date of title I from September 30, 1997, to September 30, 2000.

Paragraph (5) is a technical correction which would amend section 251(e)(1) by striking section "252(l)(1)" and inserting in lieu thereof "252(k)(1)."

Paragraph (6) would amend section 252 of EPCA, which makes available to United States oil companies a limited antitrust defense and breach of contract defense for actions taken to carry out a vol-

untary agreement or plan of action to implement the “allocation and information provisions” of the Agreement on an International Energy Program. These limited defenses are now available only in connection with the companies’ participation in planning for and implementation of the IEP’s emergency oil sharing and information programs. The amendment would extend the section 252 antitrust defense (but not the breach of contract defense) to U.S. companies when they assist the IEA in planning for and implementing coordinated drawdown of government-owned or government-controlled petroleum stocks. In 1984, largely at the urging of the United States, the IEA’s Governing Board adopted a decision on “Stocks and Supply Disruptions” which established a framework for coordinating the drawdown of member countries’ government-owned and government-controlled petroleum stocks in those oil supply disruptions that appear capable of causing severe economic harm, whether or not sufficient to activate the IEP emergency oil sharing and information programs. During the 1990–91 Persian Gulf crisis the IEA successfully tested the new coordinated stockdraw policy.

Subparagraph (A) would amend subsections 252 (a) and (b) of EPCA. These sections would be amended by substituting the term “international emergency response provisions” for the term “allocation and information provisions of the international energy program.” The new term establishes the scope of oil company activities covered by the antitrust defense and includes actions to assist the IEA in implementing coordinated drawdown of petroleum stocks.

Subparagraph (B) would amend paragraph 252(d)(3) of EPCA to clarify that a plan of action submitted to the Attorney General for approval must be as specific in its description of proposed substantive actions as is reasonable “in light of circumstances known at the time of approval” rather than “in light of known circumstances.”

Subparagraph (C) would amend paragraph 252(e)(2) of EPCA to give the Attorney General flexibility in promulgating rules concerning the maintenance of records by oil companies related to the development and carrying out of voluntary agreements and plans of action.

Subparagraph (D) would amend paragraph 252(f)(2) of EPCA to clarify that the antitrust defense applies to oil company actions taken to carry out an approved voluntary agreement as well as an approved plan of action.

Subparagraph (E) would amend subsection 252(h) of EPCA to strike the reference to section 708(A) of the Defense Production Act of 1950, which was repealed by Public Law 102–558 (October 28, 1992), and the reference to the Emergency Petroleum Allocation Act of 1973, which expired in 1981.

Subparagraph (F) would amend paragraph 252(k)(2) of EPCA by substituting a definition of the term “international emergency response provisions” for the present definition of “allocation and information provisions of the international energy program.” The new term, which establishes the scope of company actions covered by the antitrust defense, covers (A) the allocation and information provisions of the IEP and (B) emergency response measures adopted by the IEA Governing Board for the coordinated drawdown of stocks of petroleum products held or controlled by governments and

complementary actions taken by governments during an existing or impending international oil supply disruption, whether or not international allocation of petroleum products is required by the IEP.

Subparagraph (G) would amend subsection 252(l) of EPCA to delete the reference to Chapter V of the IEP, and to specify that the antitrust defenses of EPCA section 252(f) shall extend only to those allocations required by the IEP during an international energy supply emergency, as specified in Chapters III and IV of the IEP.

Paragraph (7) would amend subsection 256(h) of EPCA to authorize appropriations for fiscal years 1998 through 2002 for the activities of the interagency working group and interagency working subgroups (CORECT and COEECT) established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

Paragraph (8) would amend section 281 of EPCA by extending the expiration date of title II from September 30, 1997 to September 30, 2002.

Paragraph (9) would amend section 365 of EPCA to extend the authorization for appropriations for fiscal years 1998 through 2002 for State Energy Conservation programs.

Paragraph (10) would amend section 397 of EPCA to extend the authorization for appropriations for fiscal years 1998 through 2002 for the Energy Conservation Program for Schools and Hospitals.

Paragraph (11) would amend section 400BB of EPCA to extend the authorization for appropriation of the Alternative Fuels Truck Commercial Application Program to fiscal year 2002.

#### SECTION 2. PURCHASES FROM STRATEGIC PETROLEUM RESERVE BY ENTITIES IN INSULAR AREAS OF THE UNITED STATES

Section 2 would add a new subsection 161(j) to EPCA to ensure that Hawaii has guaranteed access to the Strategic Petroleum Reserve during an oil supply disruption. To address Hawaii's vulnerability to supply disruption, the bill provides a mechanism to guarantee an award of SPR oil in the event of a drawdown. The section provides a mechanism whereby companies serving Hawaii would be able to submit binding offers for a fixed quantity of oil at a price equal to the average of all successful bids. The section also grants ships delivering petroleum to Hawaii expedited access to SPR loading docks.

#### SECTION 3. ENERGY POLICY ACT OF 1992 AMENDMENT

Section 3 would amend section 2603 of the Energy Policy Act of 1992 (25 U.S.C. 3503) to extend the authorization of the Indian Energy Resources Program through 2000. The program was established in the Energy Policy Act of 1992 to assist Indian tribes in pursuing energy self-sufficiency.

#### SECTION 4. ENERGY CONSERVATION AND PRODUCTION ACT AMENDMENT

Section 4 would amend section 422 of the Energy Conservation and Production Act to provide authorization for appropriations for the weatherization program in fiscal years 1998–2002.

COST AND BUDGETARY CONSIDERATIONS AND FEDERAL MANDATE  
EVALUATION

The following estimate of costs of this measure and Federal mandate evaluation has been provided by the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 22, 1997.*

Hon. FRANK H. MURKOWSKI,  
*Chairman, Committee on Energy and Natural Resources,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 417, a bill to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kathleen Gramp (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 417—A bill to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002*

Summary: S. 417 would reauthorize certain activities and programs of the Department of Energy (DOE) through 2002. It would authorize the appropriation of such sums as may be necessary for selected energy conservation programs for fiscal years 1998 through 2002 and for the Strategic Petroleum Reserve (SPR) for 1998 through 2000. The annual authorization of \$30 million for the Renewable Indian Energy Resources program would be extended through 2000. The bill also would revise the terms under which DOE could lease excess SPR capacity to foreign governments and would authorize the department to spend any income derived from leasing to purchase oil for the reserve without further appropriation beginning in fiscal year 2003. Other provisions in the bill would modify and extend federal authorities and requirements related to energy emergencies, and enable the state of Hawaii to purchase oil from the SPR under certain conditions.

Assuming the appropriation of the necessary amounts, CBO estimates that enacting S. 417 would result in additional discretionary spending totaling between \$1.4 billion and \$1.5 billion over the 1998–2002 period. For the purposes of this estimate, CBO assumes that some of the excess capacity of the SPR would be leased to foreign governments beginning in 1999, yielding an estimated \$13 million in offsetting receipts over the 1999–2002 period. Because the increase in offsetting receipts is not expected until after 1998 and the bill would have no other effect on direct spending or receipts, pay-as-you-go procedures would not apply. S. 417 contains no intergovernmental or private-sector mandates as defined in the

Unfunded Mandates Reform Act of 1995 (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 417 is shown in the following table. For the purposes of this estimate, CBO assumes that the amounts authorized by the bill will be appropriated by the start of each fiscal year and that outlays will follow the historical spending trends for these activities.

[By fiscal year, in millions of dollars]

	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION						
Spending under current law:						
Estimated budget authority <sup>1</sup> .....	167	0	0	0	0	0
Estimated outlays .....	231	240	55	8	0	0
"Such Sums" authorizations projected at the 1997 level:						
Proposed changes:						
Estimated authorization level .....	0	415	415	415	165	165
Estimated outlays .....	0	176	354	407	281	193
Spending under S. 417:						
Estimated authorization level <sup>1</sup> .....	167	415	415	415	165	165
Estimated outlays .....	231	417	409	415	281	193
"Such Sums" authorizations adjusted for inflation:						
Proposed changes:						
Estimated authorization level .....	0	425	436	447	184	189
Estimated outlays .....	0	180	367	431	302	214
Spending under S. 417:						
Estimated authorization level <sup>1</sup> .....	167	425	436	447	184	189
Estimated outlays .....	231	421	422	439	302	214
CHANGES IN DIRECT SPENDING						
Estimated budget authority .....	0	0	-1	-2	-4	-6
Estimated outlays .....	0	0	-1	-2	-4	-6

<sup>1</sup> The 1997 level is the net amount appropriated for that year.

The costs of this legislation fall within budget function 270 (energy).

#### BASIS OF ESTIMATE

##### *Spending subject to appropriation*

For programs for which authorizations are not specified by the bill, CBO generally projected spending based on the amounts appropriated for the current year. In the two cases in which programs did not receive new budget authority in 1997, the projections are based on the expected level of funding available for the activities this year. For example, the SPR facilities and operation account received a net appropriation of zero because the 1997 spending authority of \$220 million was offset by an equal amount of receipts generated by the sale of oil from the reserve. For the purposes of this estimate, we have based our projects for the SPR on the \$220 million in spending authority provided for 1997. Likewise, no funds were appropriated for 1997 for the Committee on Renewable Energy Commerce and Trade, under the assumption that the activities would be funded at about \$2 million using previously appropriated balances. Hence, the estimated authorization for these activities was based on the 1997 program level of \$2 million. In total, the gross program level in 1997 for the activities affected by S. 417 is \$389 million: \$220 million for the SPR, \$165 million for the con-

servation programs being reauthorized, and \$4 million for the Renewable Indian Energy Resources program.

The table shows two alternative sets of authorization levels for fiscal years 1998 through 2002: one without adjustment for anticipated inflation, and a second that includes an adjustment for inflation for programs for which authorizations are not specified by the bill. The estimates drop significantly in 2001 because the bill would reauthorize funding for the SPR and the Renewable Indian Energy Resources program for only the next three years. Other provisions of the bill would not have a significant effect on discretionary spending.

#### *Direct spending*

S. 417 would remove some of the statutory impediments to leasing the excess capacity of the SPR to foreign governments. For example, products stored on behalf of foreign governments would not be considered part of the U.S. reserve and could be exported. Estimates of how much of the 110 million barrels of excess capacity would be leased are speculative, because the decision to lease resides with foreign governments, not DOE. At this time, most nations needing capacity either have plans for domestic storage or face regulatory barriers to using U.S. facilities. For the purposes of this estimate, CBO assumes that one or more nations would choose to store small quantities of oil in the SPR over the 1999–2002 period to accommodate growth in their storage requirements or to satisfy other strategic objectives. We estimate that such leasing activity would generate offsetting receipts totaling about \$13 million over the 1999–2002 period, assuming a storage fee of about \$1.20 per barrel (in 1997 dollars). Beginning in 2003, this provision would no longer generate net receipts, because DOE would be authorized to spend the proceeds from leasing to purchase oil for the reserve without further appropriation.

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: S. 417 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

The bill would extend the authorization of appropriations for grants to states, tribes, and localities for low-income weatherization and other energy conservation programs through fiscal year 2002. Fiscal year 1997 appropriations are about \$121 million for weatherization grants to states and about \$29 million for a consolidated energy conservation grant program. The bill would authorize appropriations for these programs at an unspecified level. The existing law authorizing the energy conservation grants requires states and localities to provide matching funds equaling at least 20 percent of program costs.

S. 417 also would extend the authorization for grants to tribes under the Renewable Indian Energy Resources program through fiscal year 2000 at the current level of \$30 million each year. Fiscal year 1997 appropriations for this program are only \$4 million.

The state of Hawaii could benefit from another provision in the bill that would guarantee that the state would be allowed to purchase oil from the SPR during a drawdown of the reserve.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal cost: Kathleen Gramp; impact on State, local, and tribal governments: Marjorie Miller.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in implementing S. 417. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses above those in existing law.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

There are not likely to be significant paperwork requirements for the Department of Energy above those required by existing law.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 417, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### ENERGY POLICY AND CONSERVATION ACT

#### Public Law 94–163, as Amended

\* \* \* \* \*

#### TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

##### PART A—DOMESTIC SUPPLY

\* \* \* \* \*

##### PART B—STRATEGIC PETROLEUM RESERVE

##### DECLARATION OF POLICY

\* \* \* \* \*

SEC. 154. (a)(1) \* \* \*

\* \* \* \* \*

*(f) No later than October 1, 1997, the Secretary shall prepare a statement of policy on Strategic Petroleum Reserve development, maintenance and drawdown. The statement of policy shall evaluate the effect of sales of petroleum from the Strategic Petroleum Reserve under authorities other than those provided by this Act on the ability of the United States to fulfill its obligations under the inter-*



*national energy program. The statement of policy shall evaluate the effectiveness of the Strategic Petroleum Reserve at reducing the impact of severe energy supply interruptions, in light of existing quantities of petroleum in the Strategic Petroleum Reserve, and the likelihood of purchases of additional petroleum for storage. The statement of policy shall set forth alternative strategies for drawdown and the criteria to be employed at the time of drawdown to select among such strategies. The statement of policy shall be published in the Federal Register and be subject to public comment, and may be prepared without regard to the requirements of section 553 of title 5, United States Code, section 501 of the Department of Energy Organization Act (42 U.S.C. 7191), and section 523 of this Act.*

\* \* \* \* \*

#### DRAWDOWN AND DISTRIBUTION OF THE RESERVE

SEC. 161. (a) The Secretary may drawdown and distribute the Reserve only in accordance with the provisions of this section.

\* \* \* \* \*

(j) *Purchases From Strategic Petroleum Reserve by Entities in Insular Areas of United States and Freely Associated States.*—

(1) *DEFINITIONS.*—*In this subsection.*

(A) *BINDING OFFER.*—*The term “binding offer” means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.*

(B) *CATEGORY OF PETROLEUM PRODUCT.*—*The term “category of petroleum product” means a master line item within a notice of sale.*

(C) *ELIGIBLE ENTITY.*—*The term “eligible entity” means an entity that owns or controls a refinery that is located within the State of Hawaii.*

(D) *FULL TANKER LOAD.*—*The term “full tanker load” means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.*

(E) *INSULAR AREA.*—*The term “insular area” means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.*

(F) *OFFERING.*—*The term “offering” means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.*

(G) *NOTICE OF SALE.*—*The term “notice of sale” means the document that announces—*

- (i) *the sale of Strategic Petroleum Reserve products;*
- (ii) *the quantity, characteristics, and location of the petroleum product being sold;*

- (iii) the delivery period for the sale; and
- (iv) the procedures for submitting offers.

(2) *IN GENERAL.*—In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

(ii) submit 1 or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

(3) *LIMITATION ON QUANTITY.*—

(A) *IN GENERAL.*—In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

(B) *PORTION OF QUANTITY OF PREVIOUS IMPORTS.*—The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to  $\frac{1}{12}$  of the total quantity of imports of the petroleum product brought into the State during the previous (or other period determined by the Secretary to be representative).

(C) *PERCENTAGE OF OFFERING.*—The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

(4) *ADJUSTMENTS.*—

(A) *IN GENERAL.*—Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

(B) *UPWARD ADJUSTMENT.*—The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

- (i) less than 1 full tanker load; or
- (ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

(C) *DOWNWARD ADJUSTMENT.*—The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

(5) *DELIVERY TO OTHER LOCATIONS.*—The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

(6) *STANDARD SALES PROVISIONS.*—Except as otherwise provided in this Act, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

(7) *ELIGIBLE ENTITIES.*—

(A) *IN GENERAL.*—Subject to the subparagraphs (B) and (C) and notwithstanding any other provisions of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligibility entity to carry out this Act, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

(B) *LIMITATION.*—The Governor of the State of Hawaii shall not certify more than 1 eligible entity under this paragraph for each notice of sale.

(C) *BARRED COMPANY.*—If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

(8) *SUPPLIES OF PETROLEUM PRODUCTS.*—At the request of the governor of an insular or President of a freely Associated State, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area in its efforts to maintain adequate supplies of petroleum products from traditional and non-traditional suppliers.

\* \* \* \* \*

#### AUTHORIZATION OF APPROPRIATIONS

【SEC. 166. There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to implement this part.】

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 166. There are authorized to be appropriated for each of fiscal years 1998 through 2000 such sums as may be necessary to implement this part.

\* \* \* \* \*

#### USE OF UNDERUTILIZED FACILITIES

SEC. 168. (a) Notwithstanding section 649(b) of the Department of Energy Organization Act (42 U.S.C. 7259(b)), the Secretary is authorized to store in underutilized Strategic Petroleum Reserve facili-

*ties, by lease or otherwise, petroleum product owned by a foreign government or its representative. Petroleum product stored under this section is not part of the Strategic Petroleum Reserve, is not subject to part C of this title, and notwithstanding any provision of this Act, may be exported from the United States.*

*(b) Beginning on October 1, 2002, funds resulting from the leasing or other use of a Reserve facility under subsection (a) shall be available to the Secretary, without further appropriation, for the purchase of petroleum products for the Reserve.*

\* \* \* \* \*

#### PART D—EXPIRATION

##### EXPIRATION

SEC. 181. Except as otherwise provided in title I, all authority under any provision of title I (other than a provision of such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, September 30, ~~1997~~ 2000, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, September 30, ~~1997~~ 2000.

\* \* \* \* \*

#### PART B—AUTHORITIES WITH RESPECT TO INTERNATIONAL ENERGY PROGRAM

##### INTERNATIONAL OIL ALLOCATION

SEC. 251. (a) \* \* \*

\* \* \* \* \*

(e) No rule under this section may be put into effect unless—

(1) an international energy supply emergency, as defined in the first sentence of ~~section 252(l)(1)~~ *section 252(k)(1)*, is in effect; and

(2) the allocation of available oil referred to in chapter III of the international energy program has been activated pursuant to chapter IV of such program.

[42 U.S.C. 6271]

##### INTERNATIONAL VOLUNTARY AGREEMENTS

SEC. 252. (a) Effective 90 days after the date of enactment of this Act, the requirements of this section shall be the sole procedures applicable to—

(1) the development or carrying out of voluntary agreements and plans of action to implement the ~~allocation and information provisions~~ *international emergency response provisions* of the international energy program, and

(2) the availability of immunity from the antitrust laws with respect to the development or carrying out of such voluntary agreements and plans of action.

(b) The Secretary, with the approval of the Attorney General, after each of them has consulted with the Federal Trade Commis-

sion and the Secretary of State, shall prescribe, by rule, standards and procedures by which persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products may develop and carry out voluntary agreements, and plans of action, which are required to implement the [allocation and information provisions] *international emergency response provisions* of the international energy program.

\* \* \* \* \*

(d)(1) \* \* \*

\* \* \* \* \*

(3) A plan of action may not be approved by the Attorney General under this subsection unless such plan (A) describes the types of substantive actions which may be taken under the plan, and (B) is as specific in its description of proposed substantive actions as is reasonable in light of [known] circumstances *known at the time of approval*.

(e)(1) The Attorney General and the Federal Trade Commission shall monitor the development and carrying out of voluntary agreements and plans of action authorized under this section in order to promote competition and to prevent anticompetitive practices and effects, while achieving substantially the purposes of this part.

(2) In addition to any requirement specified under subsections (b) and (c) of this section and in order to carry out the purposes of this section, the Attorney General, in consultation with the Federal Trade Commission and the Secretary, [shall] *may* promulgate rules concerning the maintenance of necessary and appropriate records related to the development and carrying out of voluntary agreements and plans of action authorized pursuant to this section.

\* \* \* \* \*

(f)(1) There shall be available as a defense to any civil or criminal action brought under the antitrust laws (or any similar State law) in respect to actions taken to develop or carry out a voluntary agreement or plan of action by persons engaged in the business of producing, transporting, refining, distributing, or storing petroleum products (provided that such actions were not taken for the purpose of injuring competition) that—

(A) such actions were taken—

(i) in the course of developing a voluntary agreement or plan of action pursuant to this section, or

(ii) to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section, and

(B) such persons complied with the requirements of this section and the rules promulgated hereunder.

(2) Except in the case of actions taken to develop a voluntary agreement or plan of action, the defense provided in this subsection shall be available only if the person asserting the defense demonstrates that the actions were specified in, or within the reasonable contemplation of, an approved *voluntary agreement* or plan of action.

(3) Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on

the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(g) No provision of this section shall be construed as granting immunity for, or as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any act or practice which occurred prior to the date of enactment of this Act or subsequent to its expiration or repeal.

[(h) Upon the expiration of the 90-day period which begins on the date of enactment of this Act, the provisions of sections 708 and 708A (other than 708A(o)) of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out (1) the international energy program, or (2) any allocation, price control, or similar program with respect to petroleum products under this Act or under the Emergency Petroleum Allocation Act of 1973. For purposes of section 708(A)(o) of the Defense Production Act of 1950, the effective date of the provisions of this Act which relate to international voluntary agreements to carry out the International Energy Program shall be deemed to be 90 days after the date of enactment of this Act.]

*(h) Section 708 of the Defense Production Act of 1950 shall not apply to any agreement or action undertaken for the purpose of developing or carrying out—*

- (1) the international energy program, or*
- (2) any allocation, price control, or similar program with respect to petroleum products under this Act.*

\* \* \* \* \*

(k) As used in this section and section 254:

(1) The term “international energy supply emergency” means any period (A) beginning on any date which the President determines allocation of petroleum products to nations participating in the international energy program is required by chapters III and IV of such program, and (B) ending on a date on which he determines that such allocation is no longer required. Such a period may not exceed 90 days, but the President may establish one or more additional 90-day periods by making anew the determination under subparagraph (A) of the preceding sentence. Any determination respecting the beginning or end of any such period shall be published in the Federal Register.

[(2) The term “allocation and information provisions of the international energy program” means the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in such program.]

*(2) The term “international emergency response provisions” means—*

*(A) the provisions of the international energy program which relate to international allocation of petroleum products and to the information system provided in the program, and*

*(B) the emergency response measures adopted by the Governing Board of the International Energy Agency (including*

*the July 11, 1984, decision by the Governing Board on “Stocks and Supply Disruptions”) for—*

*(i) the coordinated drawdown of stocks of petroleum products held or controlled by governments; and*

*(ii) complementary actions taken by governments during an existing or impending international oil supply disruption.*

[(1) The authority granted by this section shall apply only to the development or carrying out of voluntary agreements and plans of action to implement chapters III, IV, and V of the international energy program.]

*(l) The antitrust defense under subsection (f) shall not extend to the international allocation of petroleum products unless allocation is required by chapters III and IV of the international energy program during an international energy supply emergency.*

\* \* \* \* \*

SEC. 256. (a) \* \* \*

\* \* \* \* \*

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out the programs under subsections (d) and (e) \$10,000,000, to be divided equitably between the interagency working subgroups based on program requirements, for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995 to carry out the purposes of this subtitle. [There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to carry out this part. *There are authorized to be appropriated for each fiscal years 1998 through 2002 such sums as may be necessary to carry out this part.*

\* \* \* \* \*

## PART D—EXPIRATION

### EXPIRATION

SEC. 281. Except as otherwise provided in title II, all authority under any provision of title II (other than a provision of such title amending another law) and any rule, regulation, or order issued pursuant to such authority, shall expire at midnight, September 30, [1997] 2002, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, September 30, [1997] 2002.

[42 U.S.C. 6285]

\* \* \* \* \*

### GENERAL PROVISIONS

SEC. 365. (a) The Secretary may prescribe such rules as may be necessary or appropriate to carry out his authority under this part.

\* \* \* \* \*

(f)(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated [not

to exceed \$25,000,000 for fiscal year 1991, \$35,000,000 for fiscal year 1992, and \$45,000,000 for fiscal year 1993.】 *for each of fiscal years 1998 through 2002 such sums as may be necessary.*

\* \* \* \* \*

#### 【AUTHORIZATION OF APPROPRIATIONS

【SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated not to exceed \$40,000,000 for fiscal year 1991, \$50,000,000 for fiscal year 1992, and \$60,000,000 for fiscal year 1993.】

#### AUTHORIZATION OF APPROPRIATIONS

*SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary.*

\* \* \* \* \*

#### **SEC. 400BB. ALTERNATIVE FUELS TRUCK COMMERCIAL APPLICATION PROGRAM.**

(a) **ESTABLISHMENT.**—The Secretary, in cooperation with manufacturers of heavy duty engines and with other Federal agencies, shall establish a commercial application program to study the use of alternative fuels in heavy duty trucks and, if appropriate, other heavy duty applications.

(b) **FUNDING.**—【(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1995, to remain available until expended.】 *(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for each of fiscal years 1998 through 2002, to remain available until expended.”.*

### TITLE XXVI—INDIAN ENERGY RESOURCES

#### **SEC. 2601. DEFINITIONS.**

For purposes of this title—

\* \* \* \* \*

#### **SEC. 2603. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.**

(a) **DEMONSTRATION PROGRAMS.**—The Secretary of Energy, in consultation with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry on Indian reservations, in order to increase development of the substantial energy resources located on such Indian reservations. Such program shall include, but not be limited to, the following components:

(1) The Secretary shall provide development grants to Indian tribes or to joint ventures which are 51 percent or more controlled by an Indian tribe to assist Indian tribes in obtaining the managerial and technical capability needed to develop the energy resources on Indian reservations. Such grants shall in-



clude provisions for management training for tribal or village members, improving the technical capacity of the Indian tribe, and the reduction of tribal unemployment. Each grant shall be for a period of 3 years.

(2) The Secretary shall provide grants, not to exceed 50 percent of the project costs, for vertical integration projects. For purposes of this paragraph, the term "vertical integration project" means a project that promotes the vertical integration of the energy resources on an Indian reservation, so that the energy resources are used or processed on such Indian reservation. Such term includes, but is not limited to, projects involving solar and wind energy, oil refineries, the generation and transmission of electricity, hydroelectricity, cogeneration, natural gas distribution, and clean, innovative uses of coal.

(3) The Secretary shall provide technical assistance (and such other assistance as is appropriate) to Indian tribes for energy resource development and to promote the vertical integration of energy resources on Indian reservations.

(b) LOW INTEREST LOANS.—

(1) IN GENERAL.—The Secretary shall establish a program for making low interest loans to Indian tribes. Such loans shall be used exclusively by Indian tribes in the promotion of energy resource development and vertical integration on Indian reservations.

(2) TERMS.—The Secretary shall establish reasonable terms for loans made under this section which are to be used to carry out the purposes of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) \$10,000,000 for each of the fiscal years 1994, 1995, 1996, ~~and 1997~~ 1997, 1998, 1999, and 2000 to carry out the purposes of subsection (a)(1);

(2) \$10,000,000 for each of the fiscal years 1994, 1995, 1996, ~~and 1997~~ 1997, 1998, 1999, and 2000 to carry out the purposes of subsection (a)(2); and

(3) \$10,000,000 for each of the fiscal years 1994, 1995, 1996, ~~and 1997~~ 1997, 1998, 1999, and 2000 to carry out the purposes of subsection (b).

## ENERGY CONSERVATION AND PRODUCTION ACT

Public Law 94–385, as Amended

\* \* \* \* \*

### AUTHORIZATION OF APPROPRIATIONS

**[SEC. 422. (a) There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, other than under subsections (d) and (e) of section 415, not to exceed \$200,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994.**

**[(b) There are authorized to be appropriated for purposes of carrying out the weatherization program under subsections (d) and (e) of section 415, not to exceed \$20,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.]**

## AUTHORIZATION OF APPROPRIATIONS

*SEC. 422. For the purpose of carrying out the weatherization program under this part, there are authorized to be appropriated for each of fiscal years 1998 through 2002 such sums as may be necessary.*

